

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0578.01 Thomas Morris x4218

HOUSE BILL 12-1122

HOUSE SPONSORSHIP

Wilson,

SENATE SPONSORSHIP

(None),

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING INCENTIVES TO MINIMIZE THE DISPOSAL OF
102 MEDICATIONS IN WATER, AND, IN CONNECTION THEREWITH,
103 REQUIRING A POST-ENACTMENT REVIEW OF THE
104 IMPLEMENTATION OF THIS ACT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law allows for the disposal of unwanted medication in landfills and state waters. The bill creates a locally run medication

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

take-back program to divert this waste from water disposal and to minimize the inadvertent or inappropriate use of medications. The division of administration in the department of public health and environment will use gifts, grants, and donations to make grants to local public or private entities that wish to offer a medication take-back program. The collected medication must be disposed of safely. Immunity is provided for the sponsors of the local program. The solid and hazardous waste commission may promulgate rules for the program, including for public education. Effective January 1, 2017, the disposal of medication in water is prohibited. The general assembly's legislative service agencies will conduct a post-enactment review of the bill by July 1, 2017.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 3 to article
3 17 of title 25 as follows:

4 **PART 3**

5 **DIVERSION OF MEDICATIONS**

6 **FROM LAND AND WATER DISPOSAL**

7 **25-17-301. Legislative declaration.** (1) THE GENERAL ASSEMBLY
8 HEREBY:

9 (a) DETERMINES THAT SIGNIFICANT AMOUNTS OF MEDICATIONS,
10 INCLUDING PRESCRIPTION AND NONPRESCRIPTION DRUGS AND OTHER
11 PHARMACEUTICALS, ARE CURRENTLY BEING DISPOSED OF IN COLORADO'S
12 LANDFILLS AND WATERS;

13 (b) FINDS THAT PROMOTING ALTERNATIVES TO THE DISPOSAL OF
14 MEDICATIONS IN LANDFILLS OR STATE WATERS IS THE PRUDENT COURSE;
15 AND

16 (c) DETERMINES THAT IT IS IN THE PUBLIC INTEREST TO PROMOTE
17 MEDICATION TAKE-BACK PROGRAMS THAT DIVERT MEDICATIONS FROM
18 DISPOSAL IN THE STATE'S WATERS OR IN INAPPROPRIATE LANDFILLS,
19 THEREBY MINIMIZING THE RISKS OF UNINTENDED EXPOSURE TO THESE

1 MEDICATIONS BY:

2 (I) LIMITING THE LIABILITY OF ENTITIES THAT ACCEPT
3 MEDICATIONS FROM THE PUBLIC FOR DISPOSAL; AND

4 (II) EVENTUALLY BANNING THE DISPOSAL OF MEDICATIONS IN
5 STATE WATERS.

6 (2) THIS PART 3 IS INTENDED TO PROTECT PUBLIC HEALTH AND THE
7 ENVIRONMENT BY PROMOTING ALTERNATIVE MEDICATION DISPOSAL
8 METHODS.

9 **25-17-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE
12 COMMISSION CREATED IN SECTION 25-15-302 (1) (a).

13 (2) "CONTROLLED SUBSTANCE" HAS THE MEANING SPECIFIED IN
14 SECTION 18-18-102 (5), C.R.S.

15 (3) "DIVISION" MEANS THE DIVISION OF ADMINISTRATION CREATED
16 IN SECTION 25-1-102 (2) (a).

17 (4) "DRUG" HAS THE MEANING SPECIFIED IN SECTION 12-22-102
18 (11), C.R.S.

19 (5) "HAZARDOUS WASTE INCINERATOR" HAS THE MEANING
20 SPECIFIED IN SECTION 25-15-502 (3).

21 (6) "LOCAL PROGRAM" MEANS A PROGRAM ADMINISTERED BY A
22 PERSON, LOCAL GOVERNMENT, PRIVATE ENTITY, OR PUBLIC-PRIVATE
23 PARTNERSHIP THAT IS AT LEAST PARTIALLY FUNDED PURSUANT TO THIS
24 PART 3.

25 (7) (a) "MEDICATION" MEANS VITAMINS; MEDICATED OINTMENTS
26 AND LOTIONS; INHALERS; AND PRESCRIPTION AND NONPRESCRIPTION
27 DRUGS.

1 (b) "MEDICATION" DOES NOT INCLUDE:

2 (I) CONTROLLED SUBSTANCES, INCLUDING MEDICAL MARIJUANA,
3 AS THAT TERM IS DEFINED IN SECTION 12-43.3-104 (7), C.R.S., UNLESS
4 FEDERAL LAW ALLOWS THE COLLECTION OF CONTROLLED SUBSTANCES BY
5 STATE-APPROVED PROGRAMS;

6 (II) BLOODY OR INFECTIOUS WASTE, PERSONAL CARE PRODUCTS,
7 HYDROGEN PEROXIDE, AEROSOL CANS, THERMOMETERS, INTRAVENOUS
8 BAGS, NEEDLES OR OTHER SHARPS, PLASTIC SHOPPING BAGS, EMPTY
9 CONTAINERS, OR BUSINESS WASTE; OR

10 (III) ANY MEDICATION THAT HAS BEEN INGESTED AND EXCRETED
11 BY AN INDIVIDUAL OR ANIMAL.

12 (8) "PROGRAM" MEANS A MEDICATION TAKE-BACK PROGRAM
13 ORGANIZED PURSUANT TO THIS PART 3.

14 (9) "REVERSE DISTRIBUTOR" HAS THE MEANING ESTABLISHED IN
15 21 CFR 1300.01 (b) (41).

16 (10) "STATE PROGRAM" MEANS THE PROGRAM ADMINISTERED BY
17 THE DIVISION PURSUANT TO THIS PART 3.

18 **25-17-303. Medication take-back program - cash fund - rules**
19 **- notice of funding through gifts, grants, and donations - repeal.**

20 (1) THERE IS HEREBY ESTABLISHED IN THE DIVISION THE MEDICATION
21 TAKE-BACK PROGRAM. THE GOALS OF THE PROGRAM ARE TO MINIMIZE THE
22 DISPOSAL OF MEDICATIONS IN STATE WATERS AND LANDFILLS THAT HAVE
23 NOT BEEN DESIGNED AND PERMITTED TO SAFELY ACCEPT MEDICATION
24 WASTES AND TO REMOVE MEDICATIONS FROM HOMES AND OTHER
25 LOCATIONS TO MINIMIZE THEIR INAPPROPRIATE OR INADVERTENT USE BY:

26 (a) ESTABLISHING A GRANT PROGRAM FOR THE COLLECTION AND
27 DISPOSAL OF MEDICATIONS THROUGH INCINERATION OR OTHER APPROVED

1 DISPOSAL METHOD;

2 (b) LIMITING THE LIABILITY OF ENTITIES THAT ACCEPT
3 MEDICATIONS FROM THE PUBLIC FOR DISPOSAL; AND

4 (c) BANNING THE DISPOSAL OF MEDICATIONS IN STATE WATERS.

5 (2) (a) THE DIVISION MAY SEEK AND ACCEPT GIFTS, GRANTS, OR
6 DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS
7 SECTION; EXCEPT THAT THE DIVISION SHALL NOT ACCEPT A GIFT, GRANT,
8 OR DONATION THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT
9 WITH THIS PART 3 OR ANY OTHER LAW OF THE STATE. THE DIVISION SHALL
10 TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS,
11 GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT
12 THEM TO THE MEDICATION TAKE-BACK PROGRAM FUND, WHICH FUND IS
13 HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND".
14 REVENUES CREDITED TO THE FUND AND UNENCUMBERED OR UNEXPENDED
15 AT THE END OF EACH FISCAL YEAR REMAIN IN THE FUND AND DO NOT
16 REVERT TO THE GENERAL FUND. ALL INTEREST DERIVED FROM THE
17 DEPOSIT AND INVESTMENT OF REVENUES IN THE FUND REMAIN IN THE
18 FUND AND DO NOT REVERT TO THE GENERAL FUND. THE MONEYS IN THE
19 FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
20 ASSEMBLY TO THE DIVISION FOR THE DIRECT AND INDIRECT COSTS
21 ASSOCIATED WITH IMPLEMENTING THIS SECTION.

22 (b) (I) IN SEEKING OR ACCEPTING A GIFT, GRANT, OR DONATION,
23 THE DIVISION SHALL NOTIFY THE LEGISLATIVE COUNCIL STAFF WHEN IT
24 HAS RECEIVED ADEQUATE FUNDING THROUGH GIFTS, GRANTS, OR
25 DONATIONS FOR THE STATE PROGRAM AND SHALL INCLUDE IN THE
26 NOTIFICATION THE INFORMATION SPECIFIED IN SECTION 24-75-1303 (3),
27 C.R.S.

1 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2015.

2 (3) (a) THE DIVISION SHALL USE THE FUND PURSUANT TO RULES
3 PROMULGATED BY THE COMMISSION, IF ANY, FOR:

4 (I) GRANTS TO A PERSON, LOCAL GOVERNMENT, PRIVATE ENTITY,
5 OR PUBLIC-PRIVATE PARTNERSHIP FOR THE COLLECTION AND DISPOSAL OF
6 MEDICATIONS FROM INDIVIDUALS THROUGH INCINERATION OR LAND
7 DISPOSAL AS PROVIDED BY RULE; AND

8 (II) THE DIVISION'S DIRECT AND INDIRECT COSTS IN
9 ADMINISTERING THE STATE PROGRAM, INCLUDING A PUBLIC EDUCATION
10 PROGRAM AS AUTHORIZED BY THE COMMISSION BY RULE.

11 (b) GRANTEES MAY USE GRANTS FROM THE FUND:

12 (I) TO PURCHASE, MAINTAIN, AND LOCATE MEDICATION DROP
13 BOXES OR OTHER COLLECTION METHODS AUTHORIZED BY RULE
14 PROMULGATED PURSUANT TO SUBSECTION (4) OF THIS SECTION;

15 (II) FOR PUBLIC EDUCATION ABOUT THE BENEFITS AND OPERATION
16 OF THE PROGRAM AND ADVERTISEMENT OF LOCAL COLLECTION DRIVES;

17 (III) TO ARRANGE FOR THE PROPER DISPOSAL OF MEDICATIONS AND
18 THE PROPER DISPOSITION OF CONTROLLED SUBSTANCES, PURSUANT TO
19 SECTION 25-17-305 (2), COLLECTED THROUGH A LOCAL PROGRAM;

20 (IV) FOR THE GRANTEE'S ADMINISTRATIVE OVERHEAD COSTS
21 ASSOCIATED WITH A LOCAL PROGRAM, INCLUDING ANY NECESSARY
22 INVOLVEMENT OF LAW ENFORCEMENT ASSOCIATED WITH THE INCIDENTAL
23 COLLECTION AND DISPOSITION OF CONTROLLED SUBSTANCES; AND

24 (V) FOR OTHER PURPOSES, IF ANY, SPECIFIED BY THE COMMISSION
25 BY RULE.

26 (4) THE COMMISSION MAY PROMULGATE RULES GOVERNING THE
27 DIVISION'S ADMINISTRATION OF THE FUND AND THE STATE PROGRAM AND

1 PERMISSIBLE USES OF GRANTS FROM THE FUND. THE RULES, IF ANY, MUST
2 SPECIFY THE FOLLOWING:

3 (a) THE PARAMETERS OF A PUBLIC EDUCATION PROGRAM
4 REGARDING:

5 (I) THE STATE PROGRAM AND LOCAL PROGRAMS; AND

6 (II) THE DISPOSAL BAN ESTABLISHED BY SECTION 25-17-306;

7 (b) A PROHIBITION ON THE USE OF PROGRAM GRANTS FOR THE
8 COLLECTION OR DISPOSAL OF MEDICATIONS OR CONTROLLED SUBSTANCES
9 THAT ARE NOT HOUSEHOLD WASTE; AND

10 (c) THAT PROGRAM GRANTS MAY BE USED FOR DISPOSAL THAT
11 OCCURS EITHER INSIDE OR OUTSIDE OF COLORADO IF THE ENVIRONMENTAL
12 AND PUBLIC HEALTH PROTECTION STANDARDS APPLICABLE TO SUCH
13 DISPOSAL ARE AT LEAST AS STRINGENT AS THE ANALOGOUS STANDARDS
14 IN COLORADO.

15 **25-17-304. Immunity.** A PERSON, LOCAL GOVERNMENT, PRIVATE
16 ENTITY, OR PUBLIC-PRIVATE PARTNERSHIP THAT PARTICIPATES IN
17 SPONSORING A LOCAL PROGRAM IS IMMUNE FROM LIABILITY ARISING FROM
18 SUCH PARTICIPATION; EXCEPT THAT THIS SECTION DOES NOT IMMUNIZE
19 CONDUCT THAT NEGLIGENTLY, WILFULLY, OR KNOWINGLY VIOLATES
20 APPLICABLE LAW, INCLUDING SECTION 25-17-303 (4) (b).

21 **25-17-305. Proper disposal required - controlled substances.**

22 (1) A PERSON, LOCAL GOVERNMENT, PRIVATE ENTITY, OR PUBLIC-PRIVATE
23 PARTNERSHIP THAT PARTICIPATES IN A LOCAL PROGRAM AND THAT IS
24 RESPONSIBLE FOR ARRANGING FOR DISPOSAL OF THE MEDICATION
25 COLLECTED BY THE LOCAL PROGRAM SHALL ARRANGE FOR THE
26 INCINERATION OF THE MEDICATION AT A HAZARDOUS WASTE INCINERATOR
27 OR OTHER DISPOSAL METHOD AUTHORIZED BY RULE PROMULGATED

1 PURSUANT TO SECTION 25-17-303 (4).

2 (2) IF A LOCAL PROGRAM INADVERTENTLY COLLECTS A
3 CONTROLLED SUBSTANCE, THE PERSON THAT IS RESPONSIBLE FOR
4 ARRANGING FOR DISPOSAL OF MEDICATION COLLECTED BY THE LOCAL
5 PROGRAM SHALL, IF AUTHORIZED BY FEDERAL LAW, INCLUDING 21 CFR
6 1307.21, ARRANGE FOR THE TRANSFER OF THE CONTROLLED SUBSTANCE
7 TO A LOCAL LAW ENFORCEMENT AGENCY, REVERSE DISTRIBUTOR, OR
8 OTHER FEDERALLY AUTHORIZED ENTITY, UNLESS DISPOSAL OF THE
9 CONTROLLED SUBSTANCE AS A WASTE MEDICATION IS AUTHORIZED
10 PURSUANT TO FEDERAL LAW.

11 **25-17-306. Water disposal of medication prohibited.** (1) ON
12 AND AFTER JANUARY 1, 2017, A PERSON SHALL NOT DISPOSE OF
13 MEDICATION BY DUMPING OR FLUSHING IT ONTO THE GROUND OR INTO A
14 TOILET, A URINAL, AN INDIVIDUAL SEWAGE DISPOSAL SYSTEM, A SANITARY
15 OR STORM SEWER, SURFACE WATER, OR GROUNDWATER.

16 (2) A PERSON MAY DISPOSE OF MEDICATION BY:

17 (a) DEPOSITING IT IN A DROP BOX OR OTHER AUTHORIZED
18 COLLECTION METHOD OF A LOCAL PROGRAM; OR

19 (b) DISPOSING OF IT:

20 (I) AT AN APPROVED SITE OR FACILITY, AS THAT TERM IS DEFINED
21 IN SECTION 30-20-101 (1), C.R.S.;

22 (II) AT A PERMITTED HAZARDOUS WASTE DISPOSAL SITE, AS THAT
23 TERM IS DEFINED IN SECTION 25-15-200.3 (5); OR

24 (III) IN THE PERSON'S OWN DOMESTIC SOLID WASTE IN COMPLIANCE
25 WITH THE REQUIREMENTS OF PART 1 OF ARTICLE 20 OF TITLE 30, C.R.S.

26 **SECTION 2. Accountability.** Five years after this act becomes
27 law and in accordance with section 2-2-1201, Colorado Revised Statutes,

1 the legislative service agencies of the Colorado General Assembly shall
2 conduct a post-enactment review of the implementation of this act
3 utilizing the information contained in the legislative declaration set forth
4 in section 1 of this act. The legislative service agencies shall provide the
5 review to the health and human services committee of the senate and the
6 health and environment committee of the house of representatives or their
7 successor committees.

8 **SECTION 3. Applicability.** This act applies to conduct occurring
9 on or after the effective date of this act.

10 **SECTION 4. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.